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class-room, that the profession wants books to aid in the search for the law as it is." Assuming that by the phrase "the law as it is" the author means the decisions of the courts and judicial opinions, it is undoubtedly true that a busy lawyer needs all the aid he can get to find the actual decisions upon the precise point in issue, for in the lower courts a case "on all fours," and, perhaps, an analogous case, will decide the issue in his favor, and even in the appellate tribunals, where there is still some chance for discussion of the question on principle, such cases may have a very important, if not a controlling, influence. But we must not lose sight of the fact that judicial decisions and opinions are not "the law as it is" in the true sense of the term. They are in fact what they are in name, that is, opinions merely as to what the law is, and what the student needs and should strive to discover are the underlying principles and fundamental reasons which do not lie on the surface and can be extracted from the cases only by close study and analysis. Hence a text-book, which aims to be not merely accurate, but also original in the sense of presenting in a new and clearer light these principles and reasons, is a better and more *practical* one for the student than the text-book which is simply a fairly accurate summary of the substance of judicial decisions and judicial opinions. So far as the Law of Agency is concerned, there is more need at the present time of the former than of the latter kind of text-book.

A TREATISE ON THE LAW OF BANKS AND BANKING. By John T. Morse. Jr. Fourth Edition. By Frank Parsons. Boston: Little, Brown & Co., 1903. Two volumes. pp. cv., 1490.

Morse on Banking has long enjoyed an excellent and well-deserved reputation, not only with bankers, but with the legal profession as well. It gained this reputation while confined to the modest dimensions of a single volume. Even if its authority has not increased as rapidly as its bulk has expanded, that expansion has made the two volumes of the present edition far more serviceable to the practicing lawyer than the original work. Many subjects are discussed more fully, and the number of cited cases has been quadrupled.

The scope of this treatise is described by Mr. Parsons with much care in his preliminary chapter. It is not confined to such part of the law as owes its existence to the business of banking. On the other hand it does not attempt to deal with every legal question which affects bankers. Its aim is to group in a single treatise "the law peculiar to banks, and such further matter as is of frequent application in or has a very important bearing upon their business." Accordingly, the principal topics are: The Organization and Business of Banks: Their Officers and Agents; Deposits; Checks; Bills and Stock; National Banking Laws.

Some of these topics are discussed with very great fulness—with such fulness, in fact, as to give to parts of the work an encyclopædic character, which the editor in his preface declared his intention to avoid. For example, in the chapters on Officers and Agents we find a discussion of the tort liability of a master to a servant, for the misconduct of a fellow-servant, and a reference to the archaic distinction between misfeasance and nonfeasance, as a ground of the

personal liability of an agent.[1] Clearly such doctrines are not "of frequent application in," nor have they "a very important bearing upon" the business of banks. Digressions of this sort are not frequent, however, and, as a rule, the discussion of every topic is well proportioned and very satisfactory. At times, the editor betrays, if not intolerance, at least an inclination to rather savage criticism of judicial decisions which he believes to be erroneous. Possibly a more judicial attitude on many controverted points would inspire the reader with greater confidence in the editor's conclusions. It must be admitted, however, that his method of treatment and his glowing eloquence arrest attention and arouse interest. Occasionally, his love of metaphor seems to be unduly indulged, as at the beginning of § 276, where we find this statement: "If we try to stand off and take a comprehensive view of this much trodden ground, and endeavor to distinguish the footsteps of justice from those of other things that have the power of leaving their impressions on the sands of time." Later in this section we read: "Now if the evil and the good were found chemically pure, if there were no gold with the dirt, if a man of imprudence had never any beneficial quality mingled with his evil dispositions, the problem would be simple, the blood of society could be purified quickly and easily by exterminating all individuals exhibiting detrimental qualities." Again, in § 491: "In many States have learning and eloquence been drawn up in battle array to decide the issue, and with sadly varying results."

A very valuable feature of the work is the full and careful analysis at the opening of each chapter. It is more than a table of the chapter's contents. It is a clear and helpful abstract of the discussion which follows. It adds greatly to the usefulness of the work as a book of reference Of the general appearance of these volumes we cannot speak too highly. They are most admirable specimens of the law-book maker's art.

THE LAW OF SURETYSHIP. By Arthur Adelbert Stearns. Cincinnati: The W. H. Anderson Co. 1903. pp. xvii., 747.

The need of a good text-book on this subject for the use of students has been sorely felt. When this volume was placed in our hands, we indulged the hope that now the need was to be satisfied. Unfortunately, it is a case of hope deferred. And yet we hasten to say, the book is far from bad. In some respects, it is excellent. The practitioner will find it very helpful, for it deals most fully with those topics which supply the great bulk of modern litigation connected with suretyship. How very modern one branch of the subject is, may quickly be discovered by glancing at the notes to chapter nine, devoted to surety companies. Nearly all the cited cases belong to the last five years. Scarcely one goes back a decade.

Even the practitioner, however, needs to be on his guard against the statements of the text and the authorities cited in their support. For example, the author declares (§ 106): "The law requires good faith on the part of the beneficiary of the contract, and it is the duty of the creditor to disclose information which he has concerning the principal, which, if known to the promisor, would prevent him from

[1] See 3 COLUMBIA LAW REVIEW, 116.